IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7786 of 1999

Between:

B.Bhyrava Murthy S/o.Basavalingam
8-3-231/A/438, Sri Krishna Nagar Yousufguda, Hyderabad-45
Hyderabad Dist

..... PETITIONER

AND

1 The Dy.General Manager (Disciplinary Authority) Indian Overseas Bank
Central Office, Post Bag No.3765, 762, Annasalai
Chennai - 600 002
2 The General Manager (Appellate Authority) Indian Overseas Bank
Central Office, Post Bag No.3765, 762, Annasalai
Chennai - 600 002

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of certiorari quashing the orders issued by the 1st respondent rejecting the appeal submitted by the petitioner by order Dt.13/02/1999 and to declare the same as illegal, arbitrary and non-application of the mind on the part of the 1st respondent consequently set aside the original order Dt.29/11/1988 issued by the 2nd respondent dismissing the petitioner from services besides directing the respondents to reinstate the petitioner with all consequential benefits including continuity of service from the date of dismissal.

Counsel for the Petitioner: MR.A.SATYA PRASAD

Counsel for the Respondents: MR.E.MADAN MOHAN RAO

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Certiorari to quash the orders issued by the first respondent rejecting the appeal filed by the petitioner by an order dated 13.02.1999 and consequently, to direct the respondents to reinstate the petitioner into service with all consequential benefits.

It is the case of the petitioner that while he was working as Accountant in the Indian Overseas Bank, Kakinada, he was asked to act as In-charge Manager for the period from 22.08.1985 to 28.08.1985. Similarly, when he was working at Indian Overseas Bank, Pitapuram, he was directed to act as In-charge Manager for the period from 11.11.1985 to 16.11.1985 and that he discharged the duties entrusted to him as Branch Manager with utmost sincerity. While the things stood thus, he was served with a charge sheet dated 22.04.1986, consisting of six charges. Further, the charge sheet was split into three groups. The first charge relates to granting of demand loan against the security of fixed deposit at Kakinada. The second charge relates to grant of small loans at Kakinada. So far as the third charge is concerned, the same relates to discounting of certain cheques in Kakinada. The petitioner submitted his explanation to the same and thereafter, a regular domestic enquiry was conducted. After completion of the enquiry, the disciplinary authority passed an order of dismissal of the petitioner from the services of the respondent-Bank on 29.11.1988. Aggrieved by the same, he preferred an appeal before the appellate authority and the same was dismissed on 13.02.1999. Aggrieved by the same, the present writ petition is filed.

A detailed counter-affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner.

Heard both sides.

According to the learned counsel for the petitioner, the enquiry officer's report was not furnished to the petitioner and a second show-

cause notice was also not served on the petitioner, before the services of the petitioner were terminated under the impugned proceedings. The appellate authority also did not consider the grounds raised by the petitioner. Apart from that, even assuming that the charges are proved, the punishment of dismissal of the petitioner from the services is disproportionate to that of the misconduct alleged. Therefore, the order under challenge is liable to be set aside.

On the other hand, Sri E.Madan Mohan Rao, learned standing counsel for the respondents, strenuously contends that insofar as the furnishing of enquiry report is concerned, the case relates to the period anterior to the judgment rendered by the Supreme Court in **Union of India Vs. Mohammed Ramzankhan**, therefore, the question of non-furnishing enquiry report does not invalidate the order of punishment. Further, there is no provision under the Regulations of the Bank to furnish the second show-cause notice before dismissing from services of its employee. Even otherwise, the petitioner has not made out any case to show that non-furnishing of the enquiry officer's report has caused any prejudice to his interest except saying that the enquiry report was not furnished to him. He further contends that the charges framed against the petitioner are grave in nature and are fully proved. As such, the impugned order does not deserve any interference of this Court under Article-226 of the Constitution of India.

I have given any earnest consideration to the respective submissions made by the learned counsel on either side and also perused the impugned proceedings and other material placed on record.

At the outset, I am of the opinion that the petitioner has not made out any ground to interfere with the impugned proceedings while exercising the Certiorari jurisdiction under Article-226 of the Constitution of India. The contention of the learned counsel for the petitioner that enquiry report was not furnished was, in fact, considered by the appellate authority and held that Ramzankhan's

case (1 supra) has no application to the facts of this case. Admittedly, this is a case, which is anterior to the Ramzankhan's case. Therefore, the said judgment has no application.

The learned counsel for the petitioner relied upon another decision of the Supreme Court in **Hiran Mayee Bhattacharyya Vs. Secretary, S.M, School for Girls** and submitted that whether the decision rendered by the Supreme Court in Ramzankhan's case is applicable to the present case or not, but in order to satisfy the principles of natural justice, the respondents ought to have furnished a copy of the enquiry officer's report to the petitioner. But, as noticed above, the petitioner has not made out any case as to what was the exact prejudice caused to his interest when the enquiry officer's report was not furnished to him. Neither he gave reasons in the grounds of appeal filed before appellate authority nor in the affidavit, filed in support of the present writ petition. Therefore, the respondents committing any irregularity, illegality or not following the rules by not furnishing the enquiry officer's report does not arise.

Insofar as the merits are concerned, the charges framed against the petitioner are grave in nature. The petitioner has drawn fictitious loans in the name of fictitious persons for his own utilisation. All the charges are proved in full in domestic enquiry and the same were also appreciated by the disciplinary as well as appellate authority meticulously. Therefore, the contention of the petitioner that the oral and documentary evidence was not properly considered by Enquiry Officer is not true. Therefore, the findings of the disciplinary authority as confirmed by the appellate authority holding that the charges are proved in full and the petitioner deserves to be dismissed from the services of the bank cannot be found fault with. In view of the same, the argument of the learned counsel for the petitioner that even if the charges are proved, the punishment of dismissal of the petitioner from service is disproportionate to that of the misconduct cannot be countenanced.

In the result, the impugned orders passed by the disciplinary

authority as confirmed by the appellate authority does not warrant interference of this Court under Article-226 of the Constitution of India.

The writ petition is devoid of merits and is liable to be dismissed and is accordingly dismissed. No order as to costs.

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(C.V.RAMULU, J)

13.07.2005

DR

To

1 The Deputy General Manager (Disciplinary Authority)

Indian Overseas Bank,
Central Office, Post Bag No.3765, 762, Annasalai
Chennai - 600 002

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